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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230331-0089]

RIN 0648-BL92

**Pacific Halibut Fisheries of the West Coast; 2023 Catch Sharing Plan and
Recreational Management Measures**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule approves changes to the Pacific Halibut Catch Sharing Plan for the International Pacific Halibut Commission's regulatory Area 2A off of Washington, Oregon, and California. In addition, this final rule implements management measures governing the 2023 recreational fisheries that are not implemented through the International Pacific Halibut Commission. Management measures include the recreational fishery seasons and subarea allocations for Area 2A. These actions are intended to conserve Pacific halibut and provide angler opportunity where available.

DATES: This rule is effective May 11, 2023. The season dates and bag limits in this rule are effective on April 6, 2023. The remaining provisions of this final rule are effective on May 11, 2023.

ADDRESSES: Additional information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 500 W Ocean Blvd., Long Beach, CA, 90802. For information regarding all halibut fisheries and general regulations not contained in this rule, contact the International Pacific Halibut Commission, 2320 W. Commodore Way Suite 300, Seattle, WA 98199-1287.

FOR FURTHER INFORMATION CONTACT: Katie Davis, phone: 323-372-2126 or e-mail: *katie.davis@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Northern Pacific Halibut Act of 1982 (Halibut Act), 16 U.S.C. 773-773k, gives the Secretary of Commerce (Secretary) responsibility for implementing the provisions of the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Halibut Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). The Halibut Act requires that the Secretary adopt regulations to carry out the purposes and objectives of the Halibut Convention and Halibut Act (16 U.S.C. 773c). Additionally, as provided in the Halibut Act, the Regional Fishery Management Councils having authority for the geographic area concerned may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing in in U.S. waters that are in addition to, and not in conflict with, approved International Pacific Halibut Commission (IPHC) regulations (16 U.S.C. 773c(c)).

At its annual meeting held January 22–27, 2023, the IPHC adopted an Area 2A fishery constant exploitation yield (FCEY) of 1.52 million pounds of Pacific halibut. The FCEY was derived from the total constant exploitation yield (TCEY) of 1.65 million pounds for Area 2A, which includes commercial discards and bycatch estimates

calculated using a formula developed by the IPHC. The Area 2A catch limit and commercial fishery allocations were adopted by the IPHC and were published in the **Federal Register** on March 7, 2023 (88 FR 14066; March 7, 2023) after acceptance by the Secretary of State, with concurrence from the Secretary of Commerce, in accordance with 50 CFR 300.62. Additionally, the March 7, 2023 (88 FR 14066) final rule contains annual domestic management measures and IPHC regulations that are published each year under NMFS' authority to implement the Halibut Convention (50 CFR 300.62). This final rule contains 2023 recreational fishery subarea allocations based on the Area 2A catch limit.

Since 1988, the Pacific Fishery Management Council (Council) has developed a Catch Sharing Plan that allocates the IPHC regulatory Area 2A Pacific halibut catch limit between treaty tribal and non-tribal harvesters, and among non-tribal commercial and recreational (sport) fisheries. NMFS has implemented at 50 CFR 300.63 *et seq.* certain provisions of the Catch Sharing Plan, and implemented in annual rules annual management measures consistent with the Catch Sharing Plan. In 1995, the Council recommended and NMFS approved a long-term Area 2A Catch Sharing Plan (60 FR 14651; March 20, 1995). NMFS has been approving adjustments to the Area 2A Catch Sharing Plan based on Council recommendations each year to address the changing needs of these fisheries. While the full Catch Sharing Plan is not published in the **Federal Register**, it is made available on the Council website.

This rule approves the changes the Council recommended at its November 2022 meeting to the Catch Sharing Plan for Area 2A. The recommended changes to the Catch Sharing Plan were developed through the Council's public process. The changes to the catch sharing plan were detailed in the proposed rule and are not repeated here. This rule implements recreational Pacific halibut fishery management measures for 2023, which include season opening and closing dates. These management measures are consistent

with the recommendations made by the Council in the 2023 Catch Sharing Plan and are detailed below, and season dates recommended by the states during the proposed rule public comment period.

Additionally, this rule amends the regulations codified at 50 CFR 300.63 relating to the Area 2A recreational fishery to include certain longstanding provisions in the Catch Sharing Plan. NMFS has previously implemented these provisions through the annual management measures; they are not new to the fishery. NMFS is also finalizing non-substantive “housekeeping” changes to the codified regulations, to ensure they are up to date and clear.

2023 Recreational Fishery Management Measures

NMFS is implementing recreational fishery management measures consistent with the Council’s recommendations in the 2023 Catch Sharing Plan. If there is any discrepancy between the Catch Sharing Plan and federal regulations, federal regulations take precedence. The recreational fishing subareas, allocations, fishing dates, and daily bag limits are as follows. These provisions may be modified through inseason action consistent with 50 CFR 300.63(c). All recreational fishing in Area 2A is managed on a “port of landing” basis, whereby any halibut landed into a port counts toward the allocation for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

Washington Puget Sound and the U.S. Convention waters in the Strait of Juan de Fuca

The allocation for the subarea in Puget Sound and the U.S. waters in the Strait of Juan de Fuca is 79,031 lb.

(a) The fishing seasons are structured as follows:

(i) For the area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line at approximately 124°23.70' W long., fishing is open April 6–10, 13–17, 20–24, and April 27–May 1; May 4–8, 11–15, 18–22, and 26–28; and June 1–30. If

unharvested allocation remains after June 30, NMFS may take inseason action to reopen the fishery in August and September, up to 7 days per week, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed. Any closure will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one halibut of any size per day per person.

Washington North Coast Subarea

The allocation for landings into ports in the Washington North Coast subarea is 129,668 lb.

(a) Fishing is open May 4, 6, 11, 13, 18, 20, 26, and 28; and June 1, 3, 8, 10, 15, 17, 22, 24, and 29. If unharvested allocation remains after June 30, NMFS may take inseason action to reopen the fishery in August and September, up to 7 days per week, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed. Any closure will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one halibut of any size per day per person.

Washington South Coast Subarea

The allocation for landings into ports in the South Coast subarea is 64,376 lb.

(a) The Washington South Coast primary fishery is open on May 4, 7, 9, 11, 14, 18, 21, and 25; June 15, 18, 22, and 25. If unharvested allocation remains after June 30, NMFS may take inseason action to reopen the fishery in August and September, up to 7 days per week, until September 30 or until there is not sufficient allocation remaining for another full day of fishing and the area is therefore closed. Any closure will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825. The fishing season in the Washington South Coast northern nearshore area commences the Saturday subsequent to the closure of the

primary fishery in May or June if allocation remains in the Washington South Coast subarea allocation, and continues 7 days per week until 68,555 lb (31.10 mt) is projected to be taken by the two fisheries combined and the fishery is therefore closed on or on September 30, whichever is earlier. If the fishery is closed prior to September 30, or there is insufficient allocation remaining to reopen the Washington South coast, northern nearshore area for another fishing day, then any remaining allocation may be transferred in-season to another Washington coastal subarea by NMFS, in accordance with Federal regulations at 50 CFR 300.63(c).

(b) The daily bag limit is one halibut of any size per day per person.

Columbia River Subarea

The allocation for landings into ports in the Columbia River subarea is 18,875 lb.

(a) This subarea is divided into an all-depth fishery and a nearshore fishery. The all-depth fishery is open May 4, 7, 11, 14, 18, 21, and 25; and June 1, 4, 8, 11, 15, 18, 22, 25, and 29. If unharvested allocation remains after June 30, NMFS may take inseason action to reopen the fishery in August and September, or until there is not sufficient allocation for another full day of fishing and the area is therefore closed. The nearshore fishery is open every Monday, Tuesday, and Wednesday beginning Monday May 8 until the nearshore allocation is taken, or on September 30, whichever is earlier. Any closure will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825. Subsequent to this closure, if there is insufficient allocation remaining in the Columbia River subarea for another fishing day, then any remaining allocation may be transferred inseason to other Washington or Oregon subareas by NMFS, in accordance with Federal regulations at 50 CFR 300.63(c). Any remaining allocation would be transferred to each state in proportion to the allocation formula in the Catch Sharing Plan.

(b) The daily bag limit is one halibut of any size per day per person.

Oregon Central Coast Subarea

The allocation for landings into ports in the Oregon Central Coast subarea is 275,214 lb.

(a) The nearshore fishery is open May 1, 7 days per week, until the allocation for the nearshore fishery is estimated to have been taken, or until October 31, whichever is earlier. The allocation to the nearshore fishery is 33,026 lb.

(ii) The spring all-depth fishery is open May 1 up to 7 days per week until June 30. In the event that there is remaining subarea allocation after June 30, the fishery will also be open July 10–16 and 24–30 or until there is not sufficient allocation remaining for another full day of fishing and the area is therefore closed. The allocation to the spring all-depth fishery is 173,385 lb.

(iii) In July, NMFS will announce, in accordance with notice procedures in Federal regulations at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825, whether the fishery will re-open for the summer season in August, based on the overall Area 2A allocation. The fishery opens every other week on Thursday, Friday, and Saturday: August 3–5; August 17–19; August 31–September 2; September 14–16; September 28–30; October 12–14; and October 26–28; or until the combined spring season and summer season allocations in the Oregon Central Coast are estimated to have been taken and the area is therefore closed. Any closure will be announced in accordance with Federal regulations at 50 CFR 300.63(c) and on the NMFS hotline at (206) 526-6667 or (800) 662-9825. Additional fishing days may be opened if enough allocation is available to allow for additional fishing days after the spring season. After August 1, if 60,000 lb (27.2 mt) or greater remains from the combined nearshore, spring, and summer allocations, NMFS may take inseason action to open the all-depth fishery during months when the bottomfish fishery is not depth-restricted, up to 7 days a week, and ending when there is insufficient allocation remaining or October 31, whichever is earlier. After

September 6, if 30,000 lb (13.6 mt) or greater remains from the combined nearshore, spring, and summer allocations, and the fishery is not already open every Thursday, Friday and Saturday, NMFS may take inseason action to re-open the fishery every Thursday, Friday, and Saturday, beginning September 7, through October 31, until there is not sufficient allocation for another full day of fishing and the area is closed. NMFS will announce, in accordance with notice procedures at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825, whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open, and what the bag limit is.

(b) The Central Oregon Coast subarea allocation (all-depth and nearshore combined) is 275,214 lb. The daily bag limit is one halibut per person. NMFS will announce bag limits in accordance with notice procedures at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825.

Southern Oregon Subarea

The allocation for landings into ports in the Southern Oregon subarea is 8,000 lb.

(a) The fishery is open May 1, 7 days per week until October 31 or the allocation is taken, whichever is earlier.

(b) The daily bag limit is one halibut per person with no size limit, unless otherwise specified through inseason action. NMFS will announce any bag limit changes in accordance with notice procedures at 50 CFR 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825.

California Coast Subarea

The allocation for landings into ports in the California Coast subarea is 39,520 lb.

(a) The fishery is open May 1 through November 15, or until the subarea allocation is estimated to have been taken and the season is therefore closed, whichever is

earlier. NMFS will announce any closure in accordance with notice procedures at § 300.63(c)(3) and on the NMFS hotline (206) 526-6667 or (800) 662-9825.

(b) The daily bag limit is one halibut of any size per day per person.

Changes to Codified Regulations

NMFS is implementing “housekeeping changes” to regulations at 50 CFR 300.63. These changes include non-substantive edits to increase clarity of the regulations, updating outdated regulations to more accurately reflect the current operations of the fishery, reordering paragraphs to improve organization, and codifying certain management measures that have been unchanged over many years in the Council’s Catch Sharing Plan. Further explanation of these changes was provided in the proposed rule and is not repeated here.

Comments and Responses

NMFS published the proposed rule on March 2, 2023 (88 FR 13399) and accepted public comments on the Council’s recommended modifications to the 2023 Area 2A Catch Sharing Plan and the proposed 2023 annual management measures through March 20, 2023. NMFS received two responsive comments from state agencies—the Oregon Department of Fish and Wildlife (ODFW) and the California Department of Fish and Wildlife (CDFW)—and has responded below, as well as one comment from a member of the public, which was not responsive and is therefore not addressed here.

Comment 1: ODFW submitted a comment recommending final recreational fishing season dates for the 2023 season for the Central Oregon Coast subarea. ODFW conducted an online survey and public meeting following the IPHC annual meeting. Based on the resulting stakeholder input, past fishing effort and harvest rates, other fishing opportunities, weather impacts, and the risk of exceeding the combined spring and summer allocations, ODFW recommended season dates for the spring and summer Central Oregon Coast fisheries. For spring, ODFW recommended open dates of May 1

through June 30, 7 days per week. In the event that there is remaining subarea allocation following the initial open dates, ODFW recommended the spring fishery open on July 10–16 and July 24–30. ODFW recommended summer fishery dates on August 3–5; August 17–19 and 31; September 1–2; September 14–16; September 28–30; October 12–14; and October 26–28; or until the total 2023 all-depth catch limit for the subarea is taken.

Response: NMFS concurs that the ODFW-recommended season dates are appropriate. There are a few differences between the spring and summer season dates NMFS published in the proposed rule and those recommended by ODFW. However, based on the rationale provided by ODFW, NMFS has modified the recreational fishery season dates off of Oregon to those recommended by ODFW in this final rule.

Comment 2: CDFW submitted a comment concurring with the season dates for the fisheries off of California that NMFS published in the proposed rule for the 2023 season. CDFW conducted an online public survey following the IPHC annual meeting. Based on public comments received on Pacific halibut fisheries in California and fishing performance in recent years, CDFW recommended season dates of May 1–November 15, or until its subarea allocation has been attained, whichever comes first.

Response: NMFS concurs that these season dates are appropriate and affirms the recreational fishery season dates off of California in this final rule.

Classification

Under section 773 of the Halibut Act, the Pacific Fishery Management Council may develop, and the Secretary of Commerce may implement, regulations governing Pacific halibut fishing by U.S. fishermen in Area 2A that are in addition to, and not in conflict with, approved IPHC regulations (16 U.S.C. 773c(c)). The final rule is consistent with the Council and NMFS's authority under the Halibut Act.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the 2023 Area 2A recreational fishery management measures (i.e., season dates and bag limits) in this rule effective in time for the start of recreational Pacific halibut fisheries on April 6, 2023, pursuant to 5 U.S.C. 553(d)(3). The 2023 Catch Sharing Plan provides the framework for the annual management measures and setting subarea allocations based on annual catch limits set by the IPHC. This rule implements 2023 Area 2A subarea allocations as published in the proposed rule (88 FR 13399; March 2, 2023) for the recreational Pacific halibut fishery based on the formulas set in the Catch Sharing Plan and using the 2023 Area 2A catch limit for Pacific halibut set by the IPHC and published by NMFS on March 7, 2023 (88 FR 14066). The remaining provisions in this rule, including the changes to the codified regulations, will be in effect 30 days following publication of this rule.

Delaying the effective date of the management measures would be contrary to the public interest. The Council's 2023 Catch Sharing Plan includes changes that respond to the needs of the fisheries in each state, including fisheries that begin in early April. The Catch Sharing Plan and management measures were developed through multiple public meetings of the Council, and were described at the IPHC meeting where public comment was accepted. A delay in the effectiveness of these measures for 30 days would result in the fisheries not opening on their intended timelines and on the dates the affected public are expecting. The recreational Pacific halibut fisheries have high participation, and some subareas close months before the end of the season due to subarea allocation attainment. If the fisheries do not open on their intended timelines, fishing opportunity is lost, potentially causing economic harm to communities at recreational fishing ports.

Therefore, a delay in effectiveness of the management measures could cause economic harm to the associated fishing communities by reducing fishing opportunity at the start of the fishing year. As a result of the potential harm to fishing communities that could be caused by delaying the effectiveness of these management measures, NMFS finds good cause to waive the 30-day delay in the date of effectiveness and make the measures effective upon publication in the **Federal Register**.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

Dated: April 3, 2023

Kelly Denit,

Acting Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 300, subpart E, as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E – Pacific Halibut Fisheries

1. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773-773k.

2. In § 300.61, revise definition of “charter vessel” to read as follows:

§ 300.61 Definitions

Charter vessel, for purposes of §§ 300.65, 300.66, and 300.67, means a vessel used while providing or receiving sport fishing guide services for halibut, and, for purposes of § 300.63, means a vessel used for hire in recreational (sport) fishing for Pacific halibut, but not including a vessel without a hired operator.

* * * * *

3. Revise § 300.63 to read as follows:

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

(a) *General Provisions.* (1) Under 16 U.S.C. 773c, a fishery management council may develop regulations governing the domestic halibut fishery that do not conflict with the regulations set by the International Pacific Halibut Commission. NMFS may approve and implement such regulations. The Pacific Fishery Management Council has developed a catch sharing plan that provides a framework for allocation of Pacific halibut for Area 2A and sets management measures for fisheries in Area 2A. NMFS implements annual management measures consistent with the catch sharing plan through annual rules published in the **Federal Register**. Long term provisions included in and necessary to implement the catch sharing plan are included in the sections that follow.

(2) A portion of the Area 2A non-tribal commercial allocation is allocated as incidental catch in the salmon troll fishery in Area 2A pursuant to § 300.62. Each year the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings and will

be promulgated in the annual salmon management measures described at 660 Subpart H. This fishery will occur between dates and times listed in the annual management measures as described at § 300.62, until there is not sufficient allocation and the season is closed by NMFS.

(3) A portion of the Area 2A Washington recreational (sport) allocation is allocated pursuant to § 300.62 as incidental catch in the sablefish primary fishery north of 46°53.30' N lat. (Pt. Chehalis, Washington), which is regulated under §660.231. This fishing opportunity is only available in years in which the Washington recreational allocation is 214,110 lb (97.1 mt) or greater, provided that a minimum of 10,000 lb (4.5 mt) is available to the sablefish fishery. Each year that this fishing opportunity is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the **Federal Register**. This fishery will occur between dates and times listed in annual management measures as described under § 300.62, until there is not sufficient allocation and the season is closed by NMFS.

(i) In years when the incidental catch of halibut in the sablefish primary fishery north of 46°53.30' N lat. is allowed, it is allowed only for vessels using longline gear that are registered to groundfish limited entry permits with sablefish endorsements and that possess a permit issued pursuant to paragraph (d) of this section.

(ii) It is unlawful for any person to possess, land or purchase halibut south of 46°53.30' N lat. that were taken and retained as incidental catch authorized by this section in the sablefish primary fishery.

(4) The treaty Indian fishery is governed by § 300.64 and tribal regulations. The annual allocation for the fishery will be announced with the annual management measures as described under § 300.62.

(b) *Non-Tribal Fishery Election in Area 2A.* (1) A non-tribal vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(i) The recreational (sport) fishery as established in the annual domestic management measures issued pursuant to § 300.62 and paragraph c of this subsection;

(ii) The non-tribal commercial directed fishery for halibut established in the annual domestic management measures issued pursuant to § 300.62 and paragraph (e) of this section and/or the incidental retention of halibut during the sablefish primary fishery described at § 660.231; or

(iii) Incidental catch of halibut during the salmon troll fishery as authorized in the annual domestic management measures issued pursuant to § 300.62 and 50 CFR part 660, subpart H.

(2) No person shall fish for halibut in the recreational (sport) fishery in Area 2A from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A, or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that has been used during the same calendar year for incidental catch of halibut during the salmon troll fishery.

(4) No person shall fish for halibut in the non-tribal directed commercial halibut fishery and/or retain halibut incidentally taken in the sablefish primary fishery in Area 2A from a vessel that, during the same calendar year, has been used in the recreational (sport) halibut fishery in Area 2A or that is permitted for the recreational (sport) charter halibut fishery in Area 2A pursuant to paragraph (d) of this section.

(5) No person shall retain halibut incidentally caught in the salmon troll fishery in Area 2A taken on a vessel that, during the same calendar year, has been used in the

recreational (sport) halibut fishery in Area 2A, or that is permitted for the recreational (sport) charter halibut fishery in Area 2A pursuant to paragraph (d) of this section.

(6) No person shall retain halibut incidentally caught in the salmon troll fishery in Area 2A taken on a vessel that, during the same calendar year, has been used in the directed commercial halibut fishery and/or retained halibut incidentally taken in the sablefish primary fishery for Area 2A or that is permitted to participate in these commercial fisheries pursuant to paragraph (d) of this section.

(c) *Recreational (sport) halibut fisheries in Area 2A*—(1) *Annual Recreational Fishery Rule*. Each year, NMFS will publish a rule to govern the annual recreational (sport) fisheries for the following year and will seek public comment. The rule will include annual management measures, such as annual fishing dates and allocations for each subarea within Area 2A. The subareas are defined in paragraph (c)(5) of this section. Annual management measures may be adjusted inseason by NMFS under paragraph (c)(6) of this section.

(2) *Port of Landing*. Any halibut landed into a port counts toward the allocation for the subarea in which that port is located, and the regulations governing the subarea of landing apply, regardless of the specific area of catch.

(3) *Automatic closure of recreational fisheries*. NMFS shall determine once an area or subarea has attained or is projected to attain its area or subarea allocation, and will take automatic action to close the fishery, via announcement in the Federal Register and concurrent notification on the NMFS hotline at (206) 526-6667 or (800) 662-9825 and the NOAA Fisheries website. Closures will be determined without prior notice or opportunity to comment. These actions are nondiscretionary and the impacts must have been previously taken into account. Once the effective date of the closure is announced in the Federal Register, no person shall land, possess, or retain halibut in that area or subarea.

(4) *Groundfish fisheries.* Vessels that participate in federal recreational groundfish fisheries, including those that fish for and retain halibut, are also governed by regulations at 50 CFR 660.360.

(5) *Recreational Fishery Subareas—(i) Washington.* The Washington recreational fishery is divided into the following subareas:

(A) *Washington Puget Sound and the U.S. Convention waters in the Strait of Juan de Fuca.* The Washington Puget Sound and the U.S. Convention Waters in the Strait of Juan de Fuca subarea is located east of a line extending from 48°17.30' N lat., 124°23.70' W long., north to 48°24.10' N lat., 124°23.70' W long.

(B) *Washington North Coast Subarea.* The Washington North Coast subarea is located west of a line at approximately 124°23.70' W long. and north of the Queets River (47°31.70' N lat.).

(I) Recreational fishing for halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing with recreational gear in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is defined in groundfish regulations at 50 CFR 660.70(b).

(2) [Reserved]

(C) *Washington South Coast Subarea.* The Washington South Coast subarea is located between the Queets River, WA (47°31.70' N lat.), and Leadbetter Point, WA (46°38.17' N lat.).

(I) This subarea is divided between the all-depth fishery (the Washington South Coast primary fishery) and the incidental nearshore fishery in the area from 47°31.70' N

to 46°58.00' N lat. and east of a boundary line approximating the 30-fm (55-m) depth contour. The Washington South coast northern nearshore area is defined by straight lines connecting the following points in the order stated:

Table 1 to paragraph (c)(5)(i)(C)(I)

| Point | N lat. | W long. |
|-------|-----------|------------|
| 1 | 47°31.70' | 124°37.03' |
| 2 | 47°25.67' | 124°34.79' |
| 3 | 47°12.82' | 124°29.12' |
| 4 | 46°58.00' | 124°24.24' |

(2) Recreational fishing for halibut is allowed within the South Coast Recreational YRCA and Westport Offshore Recreational YRCA. The South Coast Recreational YRCA is defined at 50 CFR 660.70(e). The Westport Offshore Recreational YRCA is defined at 50 CFR 660.70(f).

(D) *Columbia River Subarea*. The Columbia River subarea is located between Leadbetter Point, WA (46°38.17' N lat.), and Cape Falcon, OR (45°46.00' N lat.).

(I) The nearshore fishery extends from Leadbetter Point (46°38.17' N lat., 124°15.88' W long.) to the Columbia River (46°16.00' N lat., 124°15.88' W long.) by connecting the following coordinates in Washington: 46°38.17' N lat., 124°15.88' W long., 46°16.00' N lat., 124°15.88' W long., and connecting to the boundary line approximating the 40-fm (73-m) depth contour in Oregon as defined at 50 CFR 660.71(o). The remaining area in the Columbia River subarea is the all-depth fishery.

(2) Pacific Coast groundfish may not be taken and retained, possessed or landed when halibut are on board the vessel, except sablefish, Pacific cod, flatfish species, yellowtail rockfish, widow rockfish, canary rockfish, redstripe rockfish, greenstriped

rockfish, silvergray rockfish, chilipepper, bocaccio, blue/deacon rockfish, and lingcod caught north of the Washington-Oregon border (46°16.00' N lat.) may be retained when allowed by Pacific Coast groundfish regulations at 50 CFR 660.360, during days open to the all-depth Pacific halibut fishery.

(3) Long-leader gear (as defined at 50 CFR 660.351) may be used to retain groundfish during the all-depth Pacific halibut fishery south of the Washington-Oregon border, when allowed by Pacific Coast groundfish regulations at 50 CFR 660.360.

(ii) *Oregon*. The Oregon recreational fishery is divided into the following subareas:

(A) *Oregon Central Coast Subarea*. The Oregon Central Coast Subarea is located between Cape Falcon (45°46.00' N lat.) and Humbug Mountain (42°40.50' N lat.).

(1) The nearshore fishery (the “inside 40-fm” fishery) occurs shoreward of the boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N lat. and 42°40.50' N lat. is defined at 50 CFR 660.71(o).

(2) During days open to all-depth halibut fishing when the groundfish fishery is restricted by depth, when halibut are on board the vessel, sablefish, Pacific cod, other species of flatfish (sole, flounder, sanddab), may be taken and retained, possessed or landed with long-leader gear (as defined at 50 CFR 660.351), when allowed by groundfish regulations at 50 CFR 660.360. During days open to all-depth halibut fishing when the groundfish fishery is open to all depths, any groundfish species permitted under the groundfish regulations may be retained, possessed, or landed if halibut are onboard the vessel. During days only open to nearshore halibut fishing, flatfish species may not be taken and retained seaward of the 40-fm (73-m) depth contour if halibut are on board the vessel.

(3) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, as

defined at 50 CFR 660.71(o), halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(4) Recreational fishing for halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut onboard. The Stonewall Bank YRCA is defined at 50 CFR 660.70(g) through (i).

(B) *Southern Oregon Subarea*. The Southern Oregon Subarea is located south of Humbug Mountain, Oregon (42°40.50' N lat.) to the Oregon/California Border (42°00.00' N lat.).

(1) During the recreational halibut all-depth fishery, when the groundfish fishery is restricted by depth and halibut are onboard the vessel, sablefish, Pacific cod, and other species of flatfish (sole, flounder, sanddab) may be retained, possessed, or landed, and yellowtail rockfish, widow rockfish, canary rockfish, redstriped rockfish, greenstriped rockfish, silvergray rockfish, chilipepper, bocaccio, and blue/deacon rockfish may be taken and retained, possessed or landed, when caught with long-leader gear (as defined at 50 CFR 660.351).

(2) [Reserved]

(iii) *California Coast Subarea*. The California Coast Subarea is located south of the Oregon/California Border (42°00.00' N lat.) and along the California coast.

(6) *Inseason Management for Recreational (Sport) Halibut Fisheries in Area 2A*.

(i) The Regional Administrator, NMFS West Coast Region, after consultation with the Pacific Fishery Management Council, the Commission, and the affected state(s), may modify regulations during the season after making the following determinations:

(A) The action is necessary to allow allocation objectives to be met.

(B) The action will not result in exceeding the allocation for the area.

(C) If any of the recreational (sport) fishery subareas north of Cape Falcon, Oregon are not projected to utilize their respective allocations, NMFS may take inseason action to transfer any projected unused allocation to another Washington recreational subarea.

(D) If any of the recreational (sport) fishery subareas south of Leadbetter Point, Washington, are not projected to utilize their respective allocations by their season ending dates, NMFS may take inseason action to transfer any projected unused allocation to another Oregon sport subarea.

(E) If the total estimated yelloweye rockfish bycatch mortality from recreational halibut trips in all Oregon subareas is projected to exceed 22 percent of the annual Oregon recreational yelloweye rockfish harvest guideline, NMFS may take inseason action to reduce yelloweye rockfish bycatch mortality in the halibut fishery while allowing allocation objectives to be met to the extent possible.

(ii) Flexible inseason management provisions include, but are not limited to, the following:

(A) Modification of recreational (sport) fishing periods;

(B) Modification of recreational (sport) fishing bag limits;

(C) Modification of recreational (sport) fishing size limits;

(D) Modification of recreational (sport) fishing days per calendar week;

(E) Modification of subarea allocation; and

(F) Modification of the Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) restrictions off Oregon using YRCA expansions as defined in groundfish regulations at 50 CFR 660.70(g) or (h).

(iii) *Notice procedures.* Actions taken under this section will be published in the Federal Register. Notice of inseason management actions will be provided by a telephone

hotline administered by the West Coast Region, NMFS, at 206-526-6667 or 800-662-9825.

(iv) *Effective dates.* (A) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the **Federal Register**.

(C) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(d) *Pacific Halibut Permits for IPHC Regulatory Area 2A—(1) General.* (i) This section applies to persons and vessels that fish for Pacific halibut, or land and retain Pacific halibut, in IPHC Regulatory Area 2A. No person shall fish for Pacific halibut from a vessel, nor land or retain Pacific halibut on board a vessel, used either for commercial fishing or as a recreational charter vessel in IPHC regulatory area 2A, unless the NMFS West Coast Region has issued a permit valid for fishing in IPHC regulatory area 2A for that vessel.

(ii) A permit issued for a vessel operating in the Pacific halibut fishery in IPHC Regulatory Area 2A shall be valid for one of the following, per paragraph (b) of this section:

(A) The incidental catch of Pacific halibut during the salmon troll fishery specified in paragraph (a)(2) of this section;

(B) The incidental catch of Pacific halibut during the sablefish fishery specified in paragraph (a)(3) of this section;

(C) The non-tribal directed commercial fishery during the fishing periods specified in paragraph (e)(1) of this section;

(D) Both the incidental catch of Pacific halibut during the sablefish fishery specified in paragraph (a)(3) of this section and the non-tribal directed commercial fishery during the fishing periods specified in paragraph (e)(1) of this section; or

(E) The recreational charter fishery.

(iii) A permit issued under this paragraph (d) is valid only for the vessel for which it is registered. A change in ownership, documentation, or name of the registered vessel, or transfer of the ownership of the registered vessel will render the permit invalid.

(iv) A vessel owner must contact NMFS if the vessel for which the permit is issued is sold, ownership of the vessel is transferred, the vessel is renamed, or any other reason for which the documentation of the vessel is changed as the change would invalidate the current permit. A new permit application is required if there is a change in any documentation of the vessel. To submit a new permit application, follow the procedures outlined under paragraph (d)(2) of this section. If the documentation of the vessel is changed after the deadline to apply for a permit has passed as described at paragraph (d)(2)(ii) of this section, the vessel owner may contact NMFS and provide information on the reason for the documentation change and all permit application information described at paragraph (d)(2) of this section. NMFS may issue a permit, or decline to issue a permit and the applicant may appeal per paragraph (d)(3) of this section.

(v) A permit issued under this paragraph (d) must be carried on board that vessel at all times and the vessel operator shall allow its inspection by any authorized officer. The format of this permit may be electronic or paper.

(vi) No individual may alter, erase, mutilate, or forge any permit or document issued under this section. Any such permit or document that is intentionally altered, erased, mutilated, or forged is invalid.

(vii) A permit issued under this paragraph (d) is valid only during the calendar year (January 1–December 31) for which it was issued.

(viii) NMFS may suspend, revoke, or modify any permit issued under this section under policies and procedures in title 15 CFR part 904, or other applicable regulations in this chapter.

(2) *Applications*—(i) *Application form*. To obtain a permit, an individual must submit a complete permit application to the NMFS West Coast Region Sustainable Fisheries Division (NMFS) through the NOAA Fisheries Pacific halibut permits web page at <https://www.fisheries.noaa.gov/permit/pacific-halibut-permits>. A complete application consists of:

(A) An application form that contains valid responses for all data fields, including information and signatures.

(B) A current copy of the U.S. Coast Guard Documentation Form or state registration form or current marine survey.

(C) Payment of required fees as discussed in paragraph (d)(2)(iv) of this section.

(D) Additional documentation NMFS may require as it deems necessary to make a determination on the application.

(ii) *Deadlines*. (A) Applications for permits for the directed commercial fishery in Area 2A must be received by NMFS no later than 2359 PST on February 15, or by 2359 PST the next business day in February if February 15 is a Saturday, Sunday, or Federal holiday.

(B) Applications for permits that allow for incidental catch of Pacific halibut during the salmon troll fishery or the sablefish primary fishery in Area 2A must be

received by NMFS no later than 2359 PST March 1, or by 2359 PST the next business day in March if March 1 is a Saturday, Sunday, or Federal holiday.

(C) Applications for permits for recreational charter vessels, which allow for catch of Pacific halibut during the recreational fishery, must be received a minimum of 15 days before intending to participate in the fishery, to allow for processing the permit application.

(iii) *Application review and approval.* NMFS shall issue a vessel permit upon receipt of a completed permit application submitted on the NOAA Fisheries website no later than the day before the start date of the fishery the applicant selected. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (d)(3) of this section. NMFS will decline to act on a permit application that is incomplete or if the vessel or vessel owner is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D.

(iv) *Permit fees.* The Regional Administrator may charge fees to cover administrative expenses related to processing and issuance of permits, processing change in ownership or change in vessel registration, divestiture, and appeals of permits. The amount of the fee is determined in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs. Full payment of the fee is required at the time a permit application is submitted.

(3) *Appeals.* In cases where the applicant disagrees with NMFS' decision on a permit application, the applicant may appeal that decision to the Regional Administrator. This paragraph (d)(3) describes the procedures for appealing the IAD on permit actions made in this title under this subpart.

(i) *Who may appeal?* Only an individual who received an IAD that disapproved any part of their application may file a written appeal. For purposes of this section, such individual will be referred to as the “permit applicant.”

(ii) *Appeal process.* (A) The appeal must be in writing, must allege credible facts or circumstances to show why the criteria in this subpart have been met, and must include any relevant information or documentation to support the appeal. The permit applicant may request an informal hearing on the appeal.

(B) Appeals must be mailed or faxed to: National Marine Fisheries Service, West Coast Region, Sustainable Fisheries Division, ATTN: Appeals, 7600 Sand Point Way NE, Seattle, WA, 98115; Fax: 206-526-6426; or delivered to National Marine Fisheries Service at the same address.

(C) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, and may request additional information to allow action on the appeal.

(D) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit provisions set forth in this section at the time of the application, based upon information relative to the application on file at NMFS and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons for the decision, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(E) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a

hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant, and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(F) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's decision will constitute the final administrative action by NMFS on the matter.

(iii) *Timing of appeals.* (A) For permits issued under this paragraph (d), if an applicant appeals an IAD, the appeal must be postmarked, faxed, or hand delivered to NMFS no later than 60 calendar days after the date on the IAD. If the applicant does not appeal the IAD within 60 calendar days, the IAD becomes the final decision of the Regional Administrator acting on behalf of the Secretary of Commerce.

(B) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(iv) *Address of record.* For purposes of the appeals process, NMFS will establish as the address of record, the address used by the permit applicant in initial correspondence to NMFS. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no

responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(v) *Status of permits pending appeal.* (A) For all permit actions, the permit registration remains as it was prior to the request until the final decision has been made.

(B) [Reserved]

(e) *Non-tribal directed commercial fishery management.* Each year a portion of Area 2A's overall fishery limit is allocated consistent with the Pacific Fishery Management Council's Catch Sharing Plan to the non-tribal directed commercial fishery and published pursuant to § 300.62. The non-tribal directed commercial fishery takes place in the area south of Point Chehalis, WA (46°53.30' N lat.).

(1) *Management measures.* Annually, NMFS will determine and publish in the **Federal Register** annual management measures for the upcoming fishing year for the non-tribal directed commercial fishery. This will include dates and lengths for the fishing periods for the Area 2A non-tribal directed commercial fishery, as well as the associated fishing period limits.

(i) *Fishing periods.* NMFS will determine the fishing periods, *e.g.*, dates and/or hours that permittees may legally harvest halibut in Area 2A, on an annual basis. This determination will take into account any recommendations provided by the Pacific Fishery Management Council and comments received by the public during the public comment period on the proposed annual management measures rule. The intent of these fishing periods is to ensure the Area 2A Pacific halibut directed commercial allocation is achieved but not exceeded.

(ii) *Fishing period limits.* NMFS will establish fishing period limits, *e.g.*, the maximum amount of Pacific halibut that a vessel may retain and land during a specific fishing period, and assign those limits according to vessel class for each fishing period. Fishing period limits may be different across vessel classes (except as described in

paragraph (e)(1)(iii) of this section). NMFS will determine fishing period limits following the considerations listed in paragraph (e)(1)(ii)(A) of this section. The intent of these fishing period limits is to ensure that the Area 2A commercial directed fishery does not exceed the directed commercial allocation, while attempting to provide fair and equitable access across fishery participants to an attainable amount of harvest. The limits will be published in annual management measures rules in the **Federal Register** along with a description of the considerations used to determine them.

(A) *Considerations*. When determining fishing period(s) and associated fishing period limits for the directed commercial fishery, NMFS will consider the following factors:

- (1) The directed commercial fishery allocation;
- (2) Vessel class;
- (3) Number of fishery permit applicants and projected number of participants per vessel class;
- (4) The average catch of vessels compared to past fishing period limits;
- (5) Other relevant factors.

(B) *Vessel classes*. Vessel classes are based on overall length (defined at 46 CFR 69.9) shown in the following table:

Table 2 to paragraph (e)(1)(ii)(B)

| Overall length (in feet) | Vessel class |
|--------------------------|--------------|
| 1-25 | A |
| 26-30 | B |
| 31-35 | C |
| 36-40 | D |

| | |
|-------|---|
| 41-45 | E |
| 46-50 | F |
| 51-55 | G |
| 56+ | H |

(iii) *Inseason action to add fishing periods and associated fishing period limits.*

Fishing periods in addition to those originally implemented at the start of the fishing year may be warranted in order to provide the fishery with opportunity to achieve the Area 2A directed commercial fishery allocation, if performance of the fishery during the initial fishing period(s) is different than expected and the directed commercial allocation is not attained through the initial period(s). If NMFS makes the determination that sufficient allocation remains to warrant additional fishing period(s) without exceeding the allocation for the Area 2A directed commercial fishery, the additional fishing period(s) and fishing period limits may be added during the fishing year. If NMFS determines fishing period(s) in addition to those included in an annual management measures rule is warranted, NMFS will set the fishing period limits equal across all vessel classes. The fishing period(s) and associated fishing period limit(s) will be announced in the **Federal Register** and concurrent publication on the hotline. If the amount of directed commercial allocation remaining is determined to be insufficient for an additional fishing period, the allocation is considered to be taken and the fishery will be closed, as described at paragraph (e)(2) of this section.

(2) *Automatic closure of the non-tribal directed commercial fishery.* The NMFS Regional Administrator or designee will initiate automatic management actions without prior public notice or opportunity to comment. These actions are nondiscretionary and the impacts must have been previously been taken into account.

(i) If NMFS determines that the non-tribal directed commercial fishery has attained its annual allocation or is projected to attain its allocation if additional fishing was to be allowed, the Regional Administrator will take automatic action to close the fishery, via announcement in the **Federal Register** and concurrent notification on the telephone hotline at 206-526-6667 or 800-662-9825.

(ii) [Reserved]

(f) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* (1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside a closed area, known as the nontrawl Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N lat. Between the U.S./Canada border and 46°16' N lat., the eastern boundary of the nontrawl RCA, is the shoreline. Between 46°16' N lat. and 40°10' N lat., the nontrawl RCA is defined along an eastern boundary by a line approximating the 30-fm (55-m) depth contour. Coordinates for the 30-fm (55-m) boundary are listed at 50 CFR 660.71(e). Between the U.S./Canada border and 40°10' N lat., the nontrawl RCA is defined along a western boundary approximating the 100-fm (183-m) depth contour. Coordinates for the 100-fm (183-m) boundary are listed at 50 CFR 660.73(a).

(2) Vessels that incidentally catch halibut while fishing in the sablefish primary fishery are required to follow area closures and gear restrictions defined in the groundfish regulations. It is unlawful to retain, possess or land halibut with limited entry fixed gear within the North Coast Commercial Yelloweye Rockfish Conservation Area as defined at 50 CFR 660.230. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.70.

(3) Vessels that incidentally catch halibut while fishing in the salmon troll fishery are required to follow area and gear restrictions defined in the groundfish regulations at 50 CFR 660.330. It is unlawful for a commercial salmon troll vessel to retain, possess, or

land halibut within the Salmon Troll YRCA with salmon troll gear. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.70, and in salmon regulations at 50 CFR 660.405.

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